Stephen C. Mackey Towe, Ball, Enright, Mackey & Sommerfeld, P.L.L.P. 2525 Sixth Avenue North P.O. Box 30457 Billings, MT 59107-0457 (406) 248-7337 Facsimile: (406) 248-2647 smackey@tbems.com Attorneys for Defendant

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MONTANA BILLINGS DIVISION

| HYUNDAI MOTOR FINANCE COMPANY, |)) |
|-----------------------------------|---------------------------------|
| Plaintiff, |)) No. CV 09-91-BLG-RFC-CSO |
| VS. |)) ANGWED |
| R. NICK GUTIERREZ, |) ANSWER) AND JURY DEMAND |
| Defendant. |)) |

Defendant, R. Nick Gutierrez, by and through his counsel of record, for his Answer, states and alleges as follows:

- 1. Answering the allegations of the Complaint, the Defendant answers as follows:
 - a. Admits the allegations of ¶¶1, 2, 3, 4, 5, 6, 7, and 15.
- b. The Defendant denies the allegations of ¶¶8, 10, 11, 14, and 16.

- c. The Defendant admits the first two sentences of ¶9, and is without sufficient information to admit or deny the last sentence of ¶9, and therefore denies the same.
- d. Answering ¶13 of the Complaint, the Defendant admits the first sentence thereof, but is without sufficient information to admit or deny the remaining allegations thereof, and therefore denies the same.
- e. Answering ¶12 of the Complaint, the Defendant answers the restated paragraphs in the same manner as originally answered herein.
- f. The Defendant denies all further allegations of the Complaint not previously answered herein.

FIRST AFFIRMATIVE DEFENSE

The Plaintiff's Complaint fails to state a claim against the Defendant upon which relief can be granted.

SECOND AFFIRMATIVE DEFENSE

The amount alleged due in the Complaint has been paid in full or substantially in full.

WHEREFORE, the Defendant prays for the following:

- 1. That the Plaintiff's Complaint be dismissed;
- 2. For Defendant's costs and attorney fees incurred herein; and

3. For such other and further relief as the Court deems just and property.

DATED this 28th day of September, 2009.

TOWE, BALL, ENRIGHT, MACKEY & SOMMERFELD, PLLP

By /s/ Stephen C. Mackey
STEPHEN C. MACKEY
Attorneys for Defendant

JURY DEMAND

The Defendant prays for trial by jury in the above-captioned cause. DATED this 28th day of September, 2009.

TOWE, BALL, ENRIGHT, MACKEY & SOMMERFELD, PLLP

By /s/ Stephen C. Mackey
STEPHEN C. MACKEY
Attorneys for Defendant

CERTIFICATE OF SERVICE

| | hereby | certificate ment was | that of | on Sept | tember | 28, | 2009, | a | copy | of | the |
|----------|----------|-------------------------|---------|---------|----------|------|-------|----|--------|------|------|
| foregoii | ng doćui | ment was | served | on the | followin | g pe | rsons | by | the fo | llow | ving |
| means: | | | | | | • | | • | | | • |

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- 1. Clerk, U.S. District Court
- 2. Shane P. Coleman
 Michael P. Manning
 Holland & Hart LLP
 spcoleman@hollandhart.com
 mpmanning@hollandhart.com

/s/ Stephen C. Mackey Stephen C. Mackey Attorney for Defendant